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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,916	09/15/2003	Hardial S. Gore	50806/CM/S79	2722

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EXAMINER

YEUNG, JAMES C

ART UNIT PAPER NUMBER

3749

DATE MAILED: 05/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,916

Applicant(s)

GORE ET AL.

Examiner

James C Yeung

Art Unit

3749

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-18 is/are allowed.
- 6) ☒ Claim(s) 1-15 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1-15 and 19-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- In claim 1, line 7, after "concrete", -- board -- should be inserted.
- Claims 1-15 and 19-21 are considered to be inoperable since there is no means for providing gases to the burner recited in the claims such as a fuel inlet opening in the burner pan and a fuel distribution space defined between the burner pan and the concrete board. Furthermore, claims 1, 8, and 19 should recite burner ports formed through the thickness of the concrete and ceramic boards for the passage of gases there through so as to present a complete operable device.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, and 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atemboski in view of Brooker.

Atemboski discloses the invention substantially as claimed. In particular, Atemboski shows in Fig. 19, a surface combustion burner comprising a refractory board (206); and a pan (214) comprising a peripheral surface (316), wherein a portion of the peripheral surface is coupled to the refractory board (206), wherein the refractory board (206) and pan (214) define an enclosed burner and wherein the refractory board (206) defines an exposed surface of the burner. However, Atemboski does not disclose a ceramic board.

Brooker teaches the use of a heat-resistant ceramic board/insert (72, Fig. 3) embedded within a refractory combustion surface (62, Fig. 2) for the purpose of protecting the combustion surface (62, Fig. 2) from thermal and thermo-chemical damages (note col. 2, lines 43-63)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the combustion surface of Atemboski with a heat-resistant ceramic board such as taught by Brooker in order to protect the combustion surface from thermal and thermo-chemical damages.

3. Claims 6-7, and 13-15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Art Unit: 3749


4. Claims 19-21 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Each of Follert, Shimek, Hasselmann, Tongue (U.K. Pat. 2067951), Smeg (EPO 521833), Japan Pat. 9-14615, and Shibuya (Japan Pat. 58-49815) is cited to show a burner for combustible gases.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C Yeung whose telephone number is 703 308-1047. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JY
May 8, 2004


James C. Yeung
Primary Examiner